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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/597,565	07/31/2006	Hubert Cecile Francois Martens	NLO40098	2982
24737 7590 09/19/2008 PHILIPS INTELLECTUAL PROPERTY & STANDARDS P.O. BOX 3001 BRIARCLIFF MANOR, NY 10510				
			EXAMINER ORTIZ CRIADO, JORGE L	
			ART UNIT 2627	PAPER NUMBER
			MAIL DATE 09/19/2008	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/597,565

Applicant(s)

MARTENS ET AL.

Examiner

JORGE L. ORTIZ CRIADO

Art Unit

2627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Specification

As provided in 37 CFR 1.77(b), the specification of a utility application should include the sections in order and each of the lettered items should appear in upper case, without underlining or bold type, as a section heading. If no text follows the section heading, the phrase "Not Applicable" should follow the section heading.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 2, 4, 6-8 and 10-12 are rejected under 35 U.S.C. 102(b) as being anticipated by Aratani et al. WO01/08145 (See English language equivalent document U.S. Patent No. 6,788,635).

As per claim 1 Aratani et al. discloses a record carrier carrying information represented by read-only marks (12p) in a track, the read-only marks being optically readable according to a predefined high-density data format via a beam of radiation by first variations (reflectance) of the

radiation, the record carrier comprising a recordable layer (2) for writing recorded marks (12A) in a recording area of the record carrier, which recording area extends over the track carrying the read-only marks, and which recordable layer (70) is arranged to generate second variations (reflectance) of the radiation by a difference between an unrecorded state and a recorded state, the first and second variations being different (different reflectance amplitude/intensity) for allowing detection of the read-only marks and the recorded marks from a same part of the track (see Figures 1, 2 and 5).

As per claim 2, Aratani et al. discloses wherein the first variations and second variations are variations of intensity of reflected radiation, the second variations being substantially smaller than the first variations (see Fig. 5 bottom dotted lines).

As per claim 4, Aratani et al. discloses wherein the recordable layer is a recordable mirror layer (2) having at least two distinct reflection levels (reflectance when recorded and unrecorded state) for generating the second variations, or a recordable absorption layer having at least two distinct absorption levels for generating the second variations (see Fig. 4).

As per claim 6, Aratani et al. discloses a device for recording information on a record carrier (outlined above in claim 1), the device comprising a head (43) for providing the beam, and recording means (46; 45) for, while scanning the track containing the read-only marks, controlling an intensity of the beam for writing the recorded marks by modifying the recordable layer from the unrecorded state to the recorded state (see Fig. 8).

As per claim 7, Aratani et al. discloses wherein the device comprises reading means (43, 51; 45) for detecting the read-only marks, and the recording means are arranged for controlling said intensity in dependence of the read-only marks (col. 7, line 61 to col. 8 line 13).

As per claim 8, Aratani et al. discloses a device for reading information from a record carrier (outline above in claim 1) the device comprising a head (43) for providing the beam and generating a reading signal, reading means (47-50; 45) for, while scanning the track containing the read-only marks, detecting the second variations for reading the recorded marks.

As per claim 10, Aratani et al. discloses wherein the reading means (comprise shift detection means for detecting in the reading signal a shift (see fig. 5, broken lines) in amplitude and/or level for detecting the second variations for reading the recorded marks (47-50; 45).

As per claim 11, Aratani et al. discloses wherein the device comprises reading means (43, 50; 45) for detecting the read-only marks, and the reading means are arranged for detecting the second variations in dependence of the read-only marks (arranged with respect of the edges of read-only marks, and at the time of reproduction the zero cross of read-only marks are taken into consideration, hence dependence).

As per claim 12, is drawn to the method for recording the record carrier outlined above or the method used by the device outlined above, and is rejected for the same reasons of anticipation.

Claims 1, 5, 8 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Ichiyama U.S Patent No. 5,166,913.

Regarding claims 1, Ichiyama discloses a record carrier (11) carrying information represented by read-only marks (12) in a track, the read-only marks being optically readable according to a predefined high-density data format via a beam of radiation by first variations (reflectance) of the radiation, the record carrier comprising a recordable layer (21) for writing recorded marks (29) in a recording area of the record carrier, which recording area extends over the track carrying the read-only marks, and which recordable layer (21) is arranged to generate second variations (reflectance) of the radiation by a difference between an unrecorded state and a recorded state, the first and second variations being different (different reflectance) for allowing detection of the read-only marks and the recorded marks from a same part of the track (see Figures 1, 3).

As per claim 5, Ichiyama discloses wherein the recordable layer is a refractive layer (dye layer; see col. 5, lines 1-36; write-once recording material) having at least two distinct refractive index levels (when recorded when not recorded) for generating the second variations, in

particular the refractive layer substantially filling pits (12; Fig. 1) that constitute the read-only marks.

As per claims claim 8, Ichiyama discloses a device for reading information from a record carrier (outline above in claim 1) the device comprising a head (17) for providing the beam and generating a reading signal, reading means (26; 18; 23) for, while scanning the track containing the read-only marks, detecting the second variations for reading the recorded marks.

As per claim 9, Ichiyama discloses device wherein the reading means comprise separation means (26) for simultaneously generating, from the reading signal, a high frequency reading signal for reading the read-only marks (read signal from marks 12) and a low frequency reading signal (signal from marks 29), and for detecting the second variations from the low frequency reading signal for reading the recorded marks.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ichiyama U.S. Patent No. 5,166,913.

Ichiyama discloses where the recorded marks (29) are substantially longer than the read-only marks (see Fig. 3).

Ichiyama does not particularly or expressly show that an average length the recorded marks being at least ten times an average length of the read-only marks.

However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to find the range and sizes for the marks with respect to the read-only marks, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JORGE L. ORTIZ CRIADO whose telephone number is (571)272-7624. The examiner can normally be reached on Mon.-Fri 10:00 am- 6:30 pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jorge L Ortiz-Criado/
Primary Examiner, Art Unit 2627